IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Writ Petition No.322 of 2006

Office Notes, Office Memoranda of Coram, : Appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

Dr. Ms. U.K. Kalsi, Advocate for the petitioner,
Mr. D.B. Patel, APP for the respondents/State.

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CORAM : K. J. ROHEE & C. L. PANGARKAR, JJ
DATED : OCTOBER 11, 2006

1. Rule. Returnable forthwith. Heard finally by consent of parties.

2. The petitioner was convicted for the offence punishable u/s 302 of I.P.C. on 16.1.2002 and is a life convict. He preferred Criminal Appeal No.84/2002 which is pending before this Court.

3. On 19.5.2004 the petitioner was released on parole leave. At that time he overstayed for 34 days. It was contended by the petitioner that because he was seriously injured in an accident he could not report within time. On 15.12.2003 furlough leave was granted to the petitioner for the first time and at that time he surrendered on due date.

4. The present application of the petitioner for

grant of furlough leave was rejected by the competent authority by order dated 3.4.2006 on two grounds; firstly, that when he was released on parole he overstayed for 34 days and was required to be arrested by the police. The second ground on which the furlough leave was refused is that the co-accused Kalya while on leave was murdered by the complainant. Thus there is likelihood of danger to the life of the petitioner from the complainant.

5. It may be noted that when the petitioner overstayed while on parole he was suitably punished. Thereafter furlough leave was granted to him and at that time he surrendered on due date. This clearly shows that there is no danger to his life as is mentioned in the impugned order. Hence the said order cannot be sustained and needs to be quashed and set aside.

6. The petition is, therefore, allowed. The petitioner be released on furlough leave for two weeks on his furnishing proper security to the satisfaction of the concerned authorities.

7. Rule is made absolute in above terms.

JUDGE **JUDGE**

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